



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/778,687	02/07/2001	Mark James Kline	8415	5337

27752 7590 10/31/2006

THE PROCTER & GAMBLE COMPANY  
INTELLECTUAL PROPERTY DIVISION  
WINTON HILL BUSINESS CENTER - BOX 161  
6110 CENTER HILL AVENUE  
CINCINNATI, OH 45224

EXAMINER

ANDERSON, CATHARINE L

ART UNIT	PAPER NUMBER
----------	--------------

3761

DATE MAILED: 10/31/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/778,687

Applicant(s)

KLINE ET AL.

Examiner

C. Lynne Anderson

Art Unit

3761

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 03 August 2006.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 4 and 19-25 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 4 and 19-25 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

### **DETAILED ACTION**

In view of the Appeal Brief filed on 3 August 2006, PROSECUTION IS HEREBY REOPENED.

To avoid abandonment of the application, appellant must exercise one of the following two options:

(1) file a reply under 37 CFR 1.111 (if this Office action is non-final) or a reply under 37 CFR 1.113 (if this Office action is final); or,

(2) initiate a new appeal by filing a notice of appeal under 37 CFR 41.31 followed by an appeal brief under 37 CFR 41.37. The previously paid notice of appeal fee and appeal brief fee can be applied to the new appeal. If, however, the appeal fees set forth in 37 CFR 41.20 have been increased since they were previously paid, then appellant must pay the difference between the increased fees and the amount previously paid.

### ***Response to Arguments***

Applicant's arguments with respect to the rejection in view of Malick (4,015,296) have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of Shaw (2,681,032).

Applicant's arguments with respect to the rejection in view of Deagan (5,566,398) have been fully considered but they are not persuasive.

In response to the applicant's argument that Deagan fails to disclose a mat to which an effect generating mechanism is joined, it is noted that the padding 20 within the helmet of Deagan may be considered a mat. In the case that the effect generating

Art Unit: 3761

mechanism comprises the combination of the bladder 24, tube 28, and inflating device 40, the mat 20 is then connected to the effect generating mechanism by means of adhesive 26, as shown in figure 1.

In response to the applicant's argument that the movement of the helmet by the bladder does not constitute transformation of the helmet, it is noted that the present specification does not provide a clear and precise definition of 'transformation.' The present specification merely describes an example of a type of transformation that may take place. Since the term 'transformation' is not clearly defined by the instant specification, the claim language is given its broadest reasonable interpretation, and the expansion of the bladder of Deagen to fill the interior space of the helmet is considered to transform the helmet.

In response to the applicant's argument that inflation of the bladder does not reduce the interior size of the helmet, it is noted that figure 2 clearly shows the space within the helmet (i.e. its interior size) as diminished by the inflation of the bladder. The present claim does not require the manufacturer's 'size' of the article to be changed, and therefore the decrease of the interior size of the helmet of Deagen fulfills the limitations of the claim.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Art Unit: 3761

Claims 4 and 19-24 are rejected under 35 U.S.C. 102(b) as being anticipated by Deagan (5,566,398).

With respect to claims 4 and 19, Deagan discloses a changing aid, as shown in figure 4, comprising a mat 20 and an effect generating mechanism 24, 40 joined to the mat 20 by means 26. The effect generating mechanism 24, 40 comprises an air jet. When the effect generating mechanism 24, 40 is activated, it moves an article 12 that is worn externally on a body of a wearer, thereby transforming the article, to assist in the removal of the article 12, as shown in figures 1 and 2.

With respect to claims 20 and 21, the effect generating mechanism 24, 40 comprises the expansion of the bladder 24 which reduces the interior size of the article 12, as shown in figure 2, and therefore changes a material property of the article.

With respect to claim 22, the effect generating mechanism 24, 40 comprises the discharge of compressed gas from canister 40, which is considered a thermal effect.

With respect to claim 23, the effect generating mechanism 24, 40 deactivates adhesive tabs 48 during the transformation.

With respect to claim 24, the change to the article is temporary.

Claims 19 and 25 are rejected under 35 U.S.C. 102(b) as being anticipated by Shaw (2,681,032).

Shaw discloses a changing aid comprising a mat 15 and an effect generating mechanism 18 joined to the mat 15, as shown in figure 3. The effect generating mechanism transforms a portion of the article by facilitating contraction of the mat 15 to

Art Unit: 3761

allow for a connection between a first portion, signal 20, and a second portion, opening 21, as shown in figure 4. The indication of wetness of the diaper assists in the removal process of the article.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to C. Lynne Anderson whose telephone number is (571) 272-4932. The examiner can normally be reached on Monday through Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tanya Zalukaeva can be reached on (571) 272-1115. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Application/Control Number: 09/778,687

Page 6

Art Unit: 3761

*wa*

cla

October 26, 2006

A large, stylized handwritten signature in black ink, appearing to read 'T. Zalukaeva'.

TATYANA ZALUKAEVA  
SUPERVISORY PRIMARY EXAMINER

A smaller, stylized handwritten signature in black ink, appearing to read 'T. Zalukaeva'.